

REMARKS

This Amendment is being filed in response to the Office Action mailed on October 15, 2008, which has been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the remarks to follow are respectfully requested.

Claims 1-7 and 9-20 are pending in the Application.

In the Office Action, restriction is required as between Claims 1-15, designated as Invention I and Claims 16-20, designated as Invention II.

This restriction requirement is respectfully traversed.

Election of Species Under Traverse

In response, as a formality merely to comply with 37 C.F.R. §1.143, Applicants hereby preliminarily elect claims 16-20, designated as Invention II, for an examination on the merits.

Arguments in Support of Traversal of Restriction

According to the Examiner, MPEP §806.05(e) applies and thus the restriction is proper. It is respectfully submitted that MPEP §806.05(e) specifically recites:

Process and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (A) that the process as claimed can be practiced by another materially different apparatus or by hand; or (B) that the apparatus as claimed can be used to practice another materially different process.

The Office Action alleges that "in this case, the apparatus can be used strictly for writing prearranged data onto a disc without comprising the necessary means for organizing the data as claimed by the method of claims 16-20. This position is respectfully refuted.

The apparatus as recited in claim 1 is drawn to an (emphasis added) "apparatus for processing information stored in a data carrier in which data content can be stored in places defined by a first position, the apparatus comprising: a carrier head for reading and/or writing data in said data carrier, control means for moving said carrier head in accordance with the first position,

wherein said data content stored in the data carrier is arranged in files and related sub-files on different layers of said carrier such that said data content associated with at least a part of a file and a related sub-file is accessible from said first position."

The data carrier as recited in claim 5 is drawn to a (emphasis added) "data carrier, comprising a plurality of layers for storing data content, wherein the data content is organized in files and related sub-files such that at least one of the files and the related sub-file are stored in different layers at a same position on the data carrier."

The method as recited in claim 16 is drawn to a (emphasis added) "method for storing data content on a data carrier, comprising acts of: organizing data content in a file and one or more related sub-files; storing the file on a first layer of the data carrier at a first position; and storing the one or more related sub-files on a second layer of the data carrier at said first position."

While the claims may have acquired a separate status in the art based on a separate classification, it is respectfully submitted that the inventions do not require a different field of search since a search of one of the listed inventions would necessarily include a search of subject matter required for searching the other of the inventions. Each of the claimed inventions are drawn to substantially the same data structure of the data carrier. The apparatus of claim 1 is drawn to in substantial part to a control means for moving the a carrier head over data content arranged as substantially recited in the data carrier claims, such as recited in claim 5. Further, method claim 16 for example is a method of storing content in the same structure as recited in claims 5 and 1.

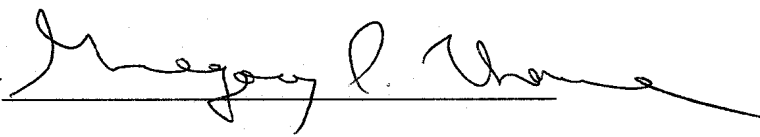
Accordingly, a search of one invention would necessarily require a search of the same art that is required for a search of another of the inventions. It is further respectfully submitted that no further burden is placed on an examination of either one of the cited inventions than is necessitated by a search of both inventions individually.

Based on the foregoing, the Applicants respectfully submit that independent claims 1, 5 and 16 and claims 2-4, 6-7, 9-15, and 17-20 that respectively depend from one of claims 1, 5 and 16 should be examined and considered on the merits.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

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